

***Rejection of Claims 24-26, 31, 32, 38, 40, 43-45, 51, 53-55, and 58-60 Under 35 U.S.C. § 103(a)***

Claims 24-26, 31, 32, 38, and 40 depend directly or indirectly from claim 21. Claims 43-45, 51, and 53-55 depend directly or indirectly from claim 41. Claims 58-60 depend directly or indirectly from claim 56. As discussed above, the rejections of amended independent claims 21, 41, and 56 are unfounded and must be withdrawn. Thus, the rejections under 35 U.S.C. § 103(a) of the claims depending directly or indirectly from claims 21, 41, and 56—i.e., claims 24-26, 31, 32, 38, 40, 43-45, 51, 53-55, and 58-60—is respectfully requested.

***Conclusion***

In view of the reasons given above, reconsideration of the pending application and the timely allowance of pending claims 21-64 are respectfully requested.

It is believed that this paper addresses all of the rejected claims and other matters sufficiently to support the allowance of all of the pending claims. The December 26, 2007, Office action contains a number of statements potentially reflecting characterizations of various claims, supporting descriptions, and/or patent or patent application references, but regardless of whether any such statements are addressed in this response, the Principal (as defined in 37 C.F.R. § 1.32(a)(3)) declines to automatically subscribe to any statement or characterization in the Office action. Although the Examiner's rejection of claims 21-64 has been traversed as set forth above without reference to many of such statements, all rights to dispute statements regarding such rejections later in any subsequent applications or causes of action relating to this application or any other application are expressly reserved.\* Accordingly, the absence of a reply to a specific rejection, issue, or comment does not signify agreement with or concession of that rejection, issue, or comment. In addition, because the arguments made above may not be exhaustive, there may be reason for patentability of any or all pending claims (or other claims) that have not been expressed. Nothing in this paper should be construed as conceding any issue with regard to any claim except as specifically and expressly stated in this

---

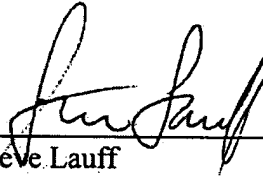
\* In particular, the Examiner's rejections of the dependent claims have not been addressed herein apart from their respective independent base claims, but all rights to dispute statements regarding such rejections later in this or any subsequent applications or causes of action relating to this application or any other application are expressly reserved.

paper, and the amendment of any claim should not be construed as conceding the unpatentability of the claim prior to amendment except as specifically and expressly stated in this paper.

The Commissioner is hereby authorized by this written request to treat this or any concurrent or future reply that requires a petition for an extension of time under 37 C.F.R. § 1.136(a) for its timely submission as incorporating a petition for extension of time for the appropriate length of time. The Commissioner is further authorized to charge all required fees, including without limitation excess claim fees or other fees under 37 C.F.R. § 1.16 or any required extension of time fees or other fees under 37 C.F.R. § 1.17, to Deposit Account No. 06-1050, on which the undersigned is authorized to sign, and to treat such authorization to charge Deposit Account No. 06-1050 as a constructive petition for an extension of time in this or any concurrent or future reply requiring a petition for an extension of time under 37 C.F.R. § 1.136(a) for its timely submission. The Commissioner is further hereby authorized to credit any overpayment to Deposit Account No. 06-1050.

Please direct all correspondence in this application to **PTO CUSTOMER NO: 26201**.

Respectfully submitted,



Steve Lauff  
Reg. No. 58,830

Date: June 25, 2008

Fish & Richardson P.C.  
One Congress Plaza  
Suite 810  
111 Congress Avenue  
Austin, TX 78701  
Telephone: (512) 472-5070  
Facsimile: (877) 769-7945

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant : Beaurain et al.                      Art Unit : 3733  
Serial No. : 10/533,846                      Examiner : Andrew Yang  
Filed : November 11, 2005                      Conf. No. : 7881  
Title : INTERVERTEBRAL DISK PROSTHESIS

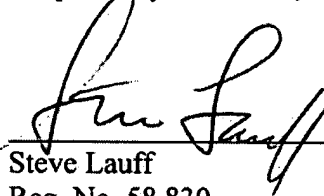
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

PETITION FOR THREE-MONTH EXTENSION OF TIME UNDER 37 C.F.R. §1.136

Please extend the period for response to the action dated December 26, 2007, for three months to and including June 26, 2008.

All fees are being paid concurrently herewith on the Electronic Filing System (EFS) by way of Deposit Account authorization. Please apply all charges or credits to Deposit Account No. 06-1050, referencing Attorney Docket No. 21249-014US1.

Respectfully submitted,



Steve Lauff  
Reg. No. 58,830

Date: June 25, 2008

Fish & Richardson P.C.  
One Congress Plaza  
Suite 810  
111 Congress Avenue  
Austin, TX 78701  
Telephone: (512) 472-5070  
Facsimile: (877) 769-7945